

**REMARKS**

A restriction to one of the following inventions has been required under 35 U.S.C. 121:

- I. Claims 1-9, drawn to an insulation batt; and
- II. Claims 10-18, drawn to a method of making an insulation batt.

Applicants hereby affirm the election made on May 19, 2003 to prosecute the invention of Group I, claims 1-9. This election is made without traverse. Claims 10-18 have been withdrawn from consideration. Claims 1-9 remain under consideration.

Claims 1-9 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. The language objected to in lines 9-12 of claim 1 is: "the fibers of the batt being randomly oriented and entangled together and predominately lying in planes that extend substantially perpendicular to the major surfaces and the end surfaces of the batt and substantially parallel to the lateral surfaces of the batt". The rejection states that the quoted language is "indefinite because it is impossible for fibers to be aligned perpendicular to two out of three dimensional planes. Fibers can only be oriented perpendicular to one plane at a time." While a single fiber may be oriented perpendicular to only one plane of three dimensional planes at a time, as shown in Appendix A, a plane in which the fibers predominately lie can extend perpendicular to two planes of three dimensional planes. As shown in Appendix A, the plane 70 in which the fibers predominately lie extends perpendicular to the planes of the major surfaces 62 and the planes of the end surfaces 66 while extending parallel to the planes of the lateral surfaces 64. Claim 1 states: "**the fibers of the batt** being randomly oriented and entangled together and **predominately lying in planes that extend** substantially perpendicular to the major surfaces and the end surfaces of the batt and substantially parallel to the lateral surfaces of the batt". Claim 1 does not state that any single fiber extends perpendicular to two of three dimensional planes. Claim 1 states that the fibers of the batt predominately lie in planes that extend perpendicular to two of three dimensional planes. Appendix A illustrates that the planes 70 in which the fibers predominately lie extend perpendicular to the planes 62 of the major surfaces and the planes 66 of the end surfaces of the batt while extending parallel to the planes 64 of the lateral surfaces of the batt. For the reasons set forth in this paragraph, the language

objected to is not believed to be indefinite and the withdrawal of the rejection under 35 U.S.C. 112 is solicited.

Claims 1-9 have been rejected under 35 U.S.C. 102(b) as being anticipated by Michelsen (U.S. Patent No. 5, 765,318). Michelsen discloses an insulation assembly in which the fibers of an encapsulated batt are symbolically drawn to indicate that the batt is a fibrous material rather than some other material. There is nothing in the disclosure of Michelsen to indicate that the orientation of the fibers in the Michelsen batt is other than the conventional orientation for fibers in such batts i.e. there is no disclosure in Michelsen that the fibers of the Michelsen batt predominately lie in planes other than planes that extend parallel to the upper and lower major surfaces of the encapsulated batt and perpendicular to the end surfaces and lateral surfaces of the encapsulated batt.

In this rejection it is stated: "The claims of the present application do not differentiate which planes of the batt define the major surfaces, lateral surfaces, or end surfaces (i.e. nothing indicates that the length must be greater than the width or the width must be greater than the thickness)." "Merriam-Webster's Collegiate Dictionary", Tenth Edition, copyright 2000, published by Merriam-Webster, Incorporated includes the following definition for "length": "1a : the longer or longest dimension of an object". Thus, the length of the resilient fibrous insulation batt of the subject invention and as set forth in claim 1 must be longer than the width. "Merriam-Webster's Collegiate Dictionary", Tenth Edition, copyright 2000, published by Merriam-Webster, Incorporated includes the following definition for "thickness": "1 : the smallest of three dimensions (length, width, and ~)". Thus, the thickness of the resilient fibrous insulation batt of the subject invention and as set forth in claim 1 must be less than the width. Figure 6 of the drawings, which shows the resilient fibrous insulation batt 20 of the subject invention and which is reproduced as part of Appendix A, and the description of the resilient fibrous insulation batt 20 of the subject invention set forth on page 6 of the specification in lines 3 to 18, conform to these definitions.

Claim 1 has been amended to state: "the length of the batt being a longest dimension of the batt; the thickness of the batt being a shortest dimension of the batt; the width of the batt being a dimension of the batt intermediate the length and the thickness of the batt in magnitude:". Thus, claim 1 defines a resilient fibrous insulation batt wherein fibers of the batt predominately lie in planes extending perpendicular to the major surfaces 62 and end surfaces 66 of the batt and parallel to the lateral surfaces 64 of the batt. Michelsen does not disclose or suggest an insulation batt such as that of the

subject invention. There is nothing in the disclosure of Michelsen to indicate that the orientation of the fibers in the Michelsen batt is other than the conventional orientation for fibers in such batts. Furthermore, there is no disclosure in Michelsen of orienting fibers within a batt so that the fibers of the batt predominately lie in planes that extend perpendicular to the upper and lower major surfaces of the batt; perpendicular to the end surfaces of the batt; and parallel to the lateral surfaces of the batt as required by claim 1. For the reasons set forth above in this response to the rejection based on Michelsen and in view of the amendments to the claim 1, claim 1 and dependent claims 2 to 9 patentably distinguish the subject invention over Michelsen and the allowance of claims 1 to 9 over Michelsen is solicited.

Claims 1, 2, 4, 5, and 8 have been rejected under 35 U.S.C. 102(b) as being anticipated by Hout et al (U.S. Patent No. 5, 536,550). In Figure 3, Hout et al disclose an insulation assembly in which the fibers of an encapsulated batt are symbolically drawn to indicate that the batt is a fibrous material rather than some other material. There is nothing in the disclosure of Hout et al to indicate that the orientation of the fibers in the Hout et al batt is other than the conventional orientation for fibers in such batts i.e. there is no disclosure in Hout et al that the fibers of the Hout et al batt predominately lie in planes other than planes that extend parallel to the upper and lower major surfaces of the encapsulated batt and perpendicular to the end surfaces and lateral surfaces of the encapsulated batt.

Claim 1 defines a resilient fibrous insulation batt wherein fibers of the batt predominately lie in planes extending perpendicular to the major surfaces 62 and end surfaces 66 of the batt and parallel to the lateral surfaces 64 of the batt. Hout et al do not disclose or suggest an insulation batt such as that of the subject invention. There is nothing in the disclosure of Hout et al to indicate that the orientation of the fibers in the Hout et al batt is other than the conventional orientation for fibers in such batts. Furthermore, there is no disclosure in Hout et al of orienting fibers within a batt so that the fibers of the batt predominately lie in planes that extend perpendicular to the upper and lower major surfaces of the batt; perpendicular to the end surfaces of the batt; and parallel to the lateral surfaces of the batt as required by claim 1. For the reasons set forth above in this response to the rejection based on Hout et al and in view of the amendments to the claim 1, claim 1 and dependent claims 2, 4, 5, 7 and 8 patentably distinguish the subject invention over Hout et al and the allowance of claims 1, 2, 4, 5, 7, and 8 over Hout et al is solicited.

Claims 1-9 have been rejected under 35 U.S.C. 102(b) as being anticipated by Fay (U.S. Patent No. 6,484,463). In Figure 2, Fay discloses an insulation assembly in which the fibers of a batt are symbolically drawn to indicate that the batt is a fibrous material rather than some other material. There is nothing in the disclosure of Fay to indicate that the orientation of the fibers in the Fay batt is other than the conventional orientation for fibers in such batts i.e. there is no disclosure in Fay that the fibers of the Fay batt predominately lie in planes other than planes that extend parallel to the upper and lower major surfaces of the encapsulated batt and perpendicular to the end surfaces and lateral surfaces of the encapsulated batt.

Claim 1 defines a resilient fibrous insulation batt wherein fibers of the batt predominately lie in planes extending perpendicular to the major surfaces 62 and end surfaces 66 of the batt and parallel to the lateral surfaces 64 of the batt. Fay does not disclose or suggest an insulation batt such as that of the subject invention. There is nothing in the disclosure of Fay to indicate that the orientation of the fibers in the Fay batt is other than the conventional orientation for fibers in such batts. Furthermore, there is no disclosure in Fay of orienting fibers within a batt so that the fibers of the batt predominately lie in planes that extend perpendicular to the upper and lower major surfaces of the batt; perpendicular to the end surfaces of the batt; and parallel to the lateral surfaces of the batt as required by claim 1. For the reasons set forth above in this response to the rejection based on Fay and in view of the amendments to the claim 1, claims 1 to 9 patentably distinguish the subject invention over Fay and the allowance of claims 1 to 9 over Fay is solicited.

Respectfully submitted,



Attorney for Applicants

John D. Lister  
Registration No. 23,004  
(480) 641-7459

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TC 1